Government Appeal No. 2077 of 2001

Hon'ble P.C. Pant, J.

This is application for condonation of delay in filing the Appeal against the judgment and order dated 24.7.2001 passed in Criminal Case No. 23 of 2001 by Additional Chief Judicial Magistrate, Nainital.

The delay in filing in Appeal is sufficiently explained in affidavit of Shri K.D. Nagai. The application for condonation of delay is allowed.

Delay is condoned.

Also heard on leave to Appeal and perused the impugned judgment and order dated 24.7.2001 passed by the trial Court in Criminal Case No. 23 of 2001, whereby the accused-respondents were acquitted of the charges punishable under Sections 147, 323, 324 I.P.C.

The trial Court after appreciating the evidence found that the charges against the respondents are not proved beyond reasonable doubt. The reason mentioned in the impugned judgment shows that witnesses PW-4, Munni and PW-3, Manju, who were said to have been injured, were not got medically examined. The trial court also found that the First Information Report is belated one. It also took into account that place of incident is not clear from the site plan prepared by the Investigating Officer. It is well settled principle of law that where after appreciation of evidence two views are possible, the appellate Court in the matter of appeal against acquittal does not ordinarily interfere with the view taken by the trial court.

In the above circumstances, the leave to Appeal is refused.

Appeal is dismissed.

(P.C.P. J.)
23.03.2007

SP.